

Response 2: The Department has sent a mailing to the last known address of all exemption certificate holders advising them of the passage of and requirements contained in Chap. 448, L. of 2005. Also, in cooperation with the largest insurer in the state, a notice to hiring agents has been drafted and is being distributed explaining the requirements contained in Chap. 448, L. of 2005. The Department agrees with the suggestion that persons with an "old" (pre-April 28, 2005) exemption apply for the "new" version pursuant to Chap. 448, L. of 2005.

Comment 3: The Montana State Fund commented in support of the amendments as proposed, stating that as a result of its participation in the study committee, which in turn recommended the new legislation, it agrees the proposed fee is necessary to appropriately administer Chap. 448, L. of 2005.

Response 3: The Department acknowledges the comments of the Montana State Fund.

Comment 4: At the public hearing, representatives of the Montana Self Insurers Association, the Montana Municipal Insurance Authority, the Montana Building Industry Association, and the United Brotherhood of Carpenters, all testified in favor of the proposed fee increase for the independent contractor exemption certificate because each supports the new program to establish a conclusive presumption of independent contractor status. Also at the public hearing, representatives of the National Federation of Independent Businesses, the Montana Chamber of Commerce, and the Montana Motor Carriers Association checked the box indicating support for the proposed rule changes on public hearing registration forms distributed by the Department.

Response 4: The Department acknowledges the comments of the various organizations that commented on the proposed amendments.

4. After consideration of the comments, the Department has amended the rules exactly as proposed.

5. As indicated in the proposal notice, the Department will apply the amendments to ARM 24.35.121 retroactively to the effective date of Chap. 448, L. of 2005. Therefore, although the amendments are effective as of June 17, 2005, the amendments apply to independent contractor exemption applications made on or after April 28, 2005.

/s/ MARK CADWALLADER
Mark Cadwallader,
Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State June 6, 2005